

§ 35.8

§ 35.8 Release.

Acceptance by the claimant, his agent or legal representative, of any award, compromise or settlement made hereunder, shall be final and conclusive on the claimant, his agent or legal representative and any other person on whose behalf or for whose benefit the claim has been presented, and shall constitute a complete release of any claim against the United States and against any employee of the Government whose act or omission gave rise to the claim, by reason of the same subject matter.

§ 35.9 Penalties.

A person who files a false claim or makes a false or fraudulent statement in a claim against the United States may be liable to a fine of not more than \$10,000 or to imprisonment of not more than 5 years, or both (18 U.S.C. 287.1001), and, in addition, to a forfeiture of \$2,000 and a penalty of double the loss or damage sustained by the United States (31 U.S.C. 231).

§ 35.10 Limitation on Department's authority.

(a) An award, compromise or settlement of a claim hereunder in excess of \$25,000 shall be effected only with the prior written approval of the Attorney General or his designee. For the purposes of this paragraph, a principal claim and any derivative or subrogated claim shall be treated as a single claim.

(b) An administrative claim may be adjusted, determined, compromised or settled hereunder only after consultation with the Department of Justice when, in the opinion of the Department:

(1) A new precedent or a new point of law is involved; or

(2) A question of policy is or may be involved; or

(3) The United States is or may be entitled to indemnity or contribution from a third party and the Department is unable to adjust the third party claim; or

(4) The compromise of a particular claim, as a practical matter, will or may control the disposition of a related claim in which the amount to be paid may exceed \$25,000.

34 CFR Subtitle A (7-1-02 Edition)

(c) An administrative claim may be adjusted, determined, compromised or settled only after consultation with the Department of Justice when it is learned that the United States or an employee, agent or cost plus contractor of the United States is involved in litigation based on a claim arising out of the same incident or transaction.

PART 60—INDEMNIFICATION OF DEPARTMENT OF EDUCATION EMPLOYEES

Sec.

60.1 What are the policies of the Department regarding indemnification?

60.2 What procedures apply to requests for indemnification?

AUTHORITY: 20 U.S.C. 3411, 3461, 3471, and 3474.

SOURCE: 54 FR 7148, Feb. 16, 1989, unless otherwise noted.

§ 60.1 What are the policies of the Department regarding indemnification?

(a)(1) The Department of Education may indemnify, in whole or in part, an employee for any verdict, judgment, or other monetary award rendered against the employee if—

(i) The conduct giving rise to the verdict, judgment, or award occurred within the scope of his or her employment with the Department; and

(ii) The indemnification is in the interest of the United States, as determined by the Secretary.

(2) The regulations in this part apply to an action pending against an ED employee as of March 30, 1989, as well as to any action commenced after that date.

(3) As used in this part, the term *employee* includes—

(i) A present or former officer or employee of the Department or of an advisory committee to the Department, including a special Government employee;

(ii) An employee of another Federal agency on detail to the Department; or

(iii) A student volunteer under 5 U.S.C. 3111.

(4) As used in this part the term *Secretary* means the Secretary of the Department of Education or an official or